

### **REMARKS**

This responds to the Office Action mailed on May 27, 2009.

Claims 1, 4-9, 33 and 46 are hereby amended. Claims 2, 3 10, 11 and 17 are hereby canceled. No new claims are hereby added. As a result, claims 1, 4-9, 29-33 and 35-46 are now pending in this application.

### **Drawing Rejections/Objections**

Figures 2 and 7 have been objected to as including referenced elements that are “not mentioned in the description.” (Office Action, Page 3). Applicants have amended the specification to include the reference numbers that the Examiner indicated were missing from the specification. Accordingly, Applicants respectfully request that the objections to the drawings be withdrawn.

### **Claim Objections**

Claims 2-11, 29-33 and 35-46 have been objected to due to various informalities.

Claims 8 and 46 have been amended as suggested by the Examiner. Applicants respectfully request that the objections to claims 8 and 46 be reconsidered and withdrawn.

Claims 2-11, 29-33 and 35-46 have been objected to under 37 CFR § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. With respect to those claims that remain pending, Applicants disagree.

Claims 4-9, 29-33 and 35-46 recite claim limitations that further limit the subject matter of another claim. For example, claim 4 states:

The method of claim 1 wherein the notifying of the user includes notifying the user through a second network with a near-real-time alerting mechanism.

As such, claim 4 limits the operation of notifying the user (recited in claim 1), by specifically reciting that the notification occurs “through a second network with a near-real-time alerting mechanism.” Consequently, claim 4 is of a proper dependent form and satisfies the requirements of 37 CFR § 1.75(c). Applicants submit that claims 4-9, 29-33 and 35-46 are of a proper

dependent form. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the objections to claims 4-9, 29-33 and 35-46.

§ 101 Rejection of the Claims

Claims 1-11 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 1 has been amended to indicate that the “presenting”, “receiving”, and “communicating” operations are performed with, or at, a “sales server.” As such, claim 1, from which claims 4-9 depend, recites a specific hardware apparatus that is performing the various operations, and is sufficiently tied to an apparatus to satisfy the requirements of § 101. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, and 4-9 under 35 U.S.C. § 101.

§ 112 Rejection of the Claims

Claims 1-12, 17, 29-33 and 35-46 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicants disagree.

For example, claim 1, as amended, recites in part:

receiving at the sales server a reminder request associated with an entry in the variable price schedule; and

notifying the user when the price of the item is the price indicated in the entry associated with the received reminder request.

Applicants submit that the claims, as amended, are sufficiently supported by the specification as a whole, and that a skilled artisan would have no difficulty making or using the invention, as currently claimed.

Claims 1 and 17 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter which Applicants regard as the invention. Claim 17 has been canceled, and therefore the rejection with respect to claim 17 is now moot. With respect to claim 1, as amended, Applicants disagree.

Claim 1 has been amended. As amended, claim 1 is believed to sufficiently and particularly point out and claim the subject matter which Applicants regard as the invention.

Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 112, second paragraph be reconsidered and withdrawn.

§ 102 Rejection of the Claims

Claims 1-2, 17 and 29 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Geiger (U.S. Patent No. 6,434,536). Applicants disagree.

Claim 1 as amended recites:

A networked sales method, comprising:

presenting with a sales server, via a first network, item information associated with an item on a sales screen to a user;

communicating with a sales server a variable price schedule for the item to the user, the variable price schedule including a plurality of entries, each entry indicating a price at which the item is to be offered for sale in a specified time period;

receiving at the sales server a reminder request associated with an entry in the variable price schedule; and

notifying the user when the price of the item is the price indicated in the entry associated with the received reminder request.

Geiger does not describe or suggest “communicating ... a variable price schedule ... including a plurality of entries, each entry indicating a price at which [an] item is to be offered for sale in a specified time period” as is currently recited in amended claim 1. Moreover, Geiger does not describe anything similar to the concept of a “variable price schedule” as that term is claimed in claim 1, and used throughout Applicants’ specification. Accordingly, Geiger does not anticipate claim 1. For the same reasons, Geiger does not anticipate claim 29, which is dependent upon claim 1.

§ 103 Rejection of the Claims

Claims 3-7 have been rejected under 35 U.S.C. § 103(a) as being obvious over Geiger in view of Nahan et al. (U.S. Patent No. 5,664,111, hereinafter; “Nahan”). Applicants disagree.

Nahan does not describe or suggest the use of a “variable price schedule” as that term is claimed in claim 1, and used throughout Applicants’ specification. Therefore, for the same

reason that claim 1 is not anticipated by Geiger, claims 4-7 are not obvious in view of the combination of Geiger and Nahan.

Claims 10-11, 30-33 and 35-46 have been rejected under 35 U.S.C. § 103(a) as being obvious over Geiger in view of Nahan and further in view of Godin (U.S. Patent No. 5,890,138). Applicants disagree.

Godin does not describe or suggest the use of a “variable price schedule” as that term is claimed in claim 1, and used throughout Applicants’ specification. Therefore, for the same reason that claim 1 is not anticipated by Geiger, claims 30-33 and 35-46 are not obvious in view of the combination of Geiger, Nahan and Godin.

Applicants respectfully request the reconsideration and withdrawal of the rejections of claims under § 103.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 660-2014 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 27 October 2009

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27th day of October, 2009.

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